

A Response to the Restriction Requirement:

A. Status of the Claims

Claims 25-61 and 74-82 were pending at the time the Restriction Requirement was issued on July 9, 2004. Claims 26-38, 47-61, and 76-81 have been withdrawn without prejudice or disclaimer in the Amendment submitted herewith as directed to non-elected inventions in response to the Restriction Requirement as discussed below.

Claim 42 has been amended without prejudice or disclaimer. Claim 83 has been added by amendment. Applicants note that new claim 83 corresponds to Group I of the restriction requirement, in that it is dependent to a claim previously found by the Examiner to be within the Group I invention. The claim amendment and the new claim are supported in the specification and claims as originally filed.

In view of the above, claims 25-61 and 74-83 are pending.

B. Response to Restriction Requirement

Applicants traverse the Restriction Requirement in view of the fact that the pending Group I claims and Group II claims are generically linked by claim 25. Specifically, all of the pending Group I and Group II claims include the limitations of claim 25, and therefore claim 25 generically links the claims identified as Groups I and II. 37 C.F.R. §1.141(a).

In a restriction requirement, the presence of generic linking claims should be stated on the record. M.P.E.P. §814. The linked claims “must be examined with any one of the linked inventions that may be elected.” *Id.* Claim 25 links all of the pending Group I and II claims and therefore Applicants respectfully request that this be indicated on the record and that all of the claims be examined, at such time as the Group I claims including linking claim 25 are found to be allowable.

Applicants respectfully point out that they presently take and have taken no position as to whether the Group I and Group II claims are or are not patentably distinct. Rather, this traversal is based solely on the linking claim and the M.P.E.P. requirement of examination based on that linking claim.

In the event that, for whatever reason, the above traversal is not provisionally successful, Applicants elect to prosecute the Group I invention, as exemplified by claims 25, 39-51, 74-75, 82, and 83. Applicants note that claim 33 was included in Group I. This appears to be a typographical error as claim 33 is drawn to the subject matter that the Action identifies as Group II. Accordingly, Applicants have withdrawn claim 33 as being directed to a non-elected invention. Applicants reserve the right to prosecute claims directed to the provisionally non-elected inventions in continuing applications.

C. Response to Species Election

In view of the election of the Group I invention and the statements of paragraph 5 of the Action setting forth a species election requirement, Applicants elect *Chlamydia psittaci* as the species for initial examination in this case. Further in view of the election of the Group I invention and the statements of paragraph 6 of the action setting forth a species election requirement for the second *Chlamydia* antigen, Applicants elect SEQ ID NO:13 and antigenic fragments thereof as the species for initial examination in this case.

Applicants would point out that SEQ ID NO:13 comprises the amino acid sequence of SEQ ID NO:11. Therefore, in view of the election of the species of antigens or antigenic fragments having a sequence of SEQ ID NO:13, claims directed to antigens of SEQ ID NO:11 and antigenic fragments thereof, are subspecific claims within the specific claims directed to

antigens of SEQ ID NO:13 or antigenic fragments thereof. No additional search is required to search SEQ ID NO:11 if SEQ ID NO:13 is searched.

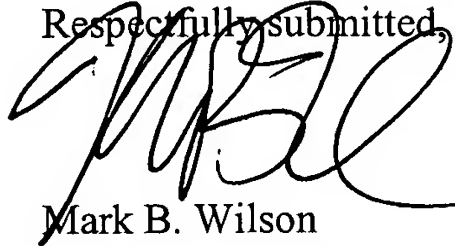
Claims 25, 39-45, 74, 75, 82, and 83 are generic to the elected species based on *Chlamydia Psittaci*. Claims 25, 39-41, 43-46, 74, 75, and 82 are generic to the elected species based on SEQ ID NO:13. With respect to all non-elected species, Applicants reserve the right to have a reasonable number of claims directed to non-elected species considered by the Examiner upon allowance of a generic claim under 37 C.F.R. § 1.141.

D. Conclusion

Applicants believe this to be a full and complete response to the Restriction Requirement dated July 9, 2004. It is believed that no fee is due for filing this Response to the Restriction Requirement. However, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, consider this paragraph such a request and authorization to withdraw the appropriate fee from Fulbright & Jaworski Deposit Account No. 50-1212/UTSD:736US.

Should the Examiner have any questions, comments, or suggestions relating to this case, the Examiner is invited to contact the undersigned Applicants' representative at (512) 536-3035.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MBW', is written over the words 'Respectfully submitted,'.

Mark B. Wilson
Reg. No. 37,259
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 536-3035
(512) 536-4598 (facsimile)

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